



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

In re Application of
Hiroshi Sugitani *et al*
Application No. 09/360,453
Filed: July 16, 1999
Attorney Docket No. 03560.001250.1

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: DECISION ON PETITION
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This is a decision on the petition filed on March 11, 2002 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a reply to the Office letter dated May 30, 2001. No fee is required for the petition.

The petition is granted.

Petitioners allege that this application was not in fact abandoned because petitioners did not in fact receive the Office letter in question. Petitioners support this allegation in a manner that satisfies the minimum requirements for a showing of nonreceipt of Office correspondence, as established by the Notice published at 1156 OG 53, and as discussed in MPEP § 711.03(c).

The Office letter dated May 30, 2001, paper No. 5, indicates that the period for filing a reply to paper No. 4, an Office letter dated April 4, 2001, was being restarted to run "one month or 30 days" from the date of mailing of paper No. 5. Paper No. 5 reflects the fact that paper No. 4 was not mailed to the correspondence address of record. While paper No. 5 also reflects the fact that a telephone conversation was had by counsel, presumably regarding the remailing of paper No. 4, paper No. 5 does not reflect that a copy of paper No. 4 was remailed as part of paper No. 5. While neither the record nor the petition indicate why counsel did not thereafter seasonably inquire regarding paper No. 4 so that a reply thereto could be filed, the fact remains that without receipt of paper No. 4, petitioners could obviously not reply thereto. Therefore, it is clear from the record and from the submission in the petition that this application was not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for Patent Examining Group 3720 for remailing a complete copy of paper No. 4, that is, the Office letter dated April 5, 2001, together with all attachments thereto including references. The correct correspondence address is currently contained in the PALM ExPo system. The period for reply to the remailed Office action will run ONE MONTH OR THIRTY DAYS, WHICHEVER IS LONGER, from the date upon which paper No. 4 is remailed, and can be extended up to the statutory maximum of six months under the provisions of 37 CFR 1.136(a).

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

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